

House File 398 - Introduced

HOUSE FILE 398
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 61)

A BILL FOR

1 An Act relating to adoption proceedings by providing for
2 representation of adoptive parents and guardians ad litem
3 by local public defenders for children in certain adoption
4 proceedings and modifying filing requirements for adoption
5 petitions and notice requirements for adoption hearings of
6 adults.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13B.9, subsection 1, paragraphs b and c,
2 Code 2023, are amended to read as follows:

3 b. Represent an indigent party, upon order of the court,
4 in child in need of assistance, family in need of assistance,
5 delinquency, and termination of parental rights proceedings
6 pursuant to [chapter 232](#) when designated by the state public
7 defender to represent the indigent party in the type of case
8 for that county. The local public defender shall counsel and
9 represent an indigent party in all proceedings pursuant to
10 chapter 232 to which the local public defender is appointed
11 and prosecute before or after judgment any appeals or other
12 remedies which the local public defender considers to be in
13 the interest of justice unless other counsel is appointed to
14 the case. A local public defender office or designee shall
15 represent in a subsequent adoption proceeding ~~an indigent a~~
16 party including a nonindigent party who files an adoption
17 petition pursuant to [section 600.3](#) to adopt a child who was the
18 subject of a termination of parental rights proceeding pursuant
19 to [chapter 232](#) in which the local public defender office was
20 involved as provided under this paragraph. If a conflict of
21 interest arises, the representation shall be provided through
22 referral of the ~~indigent~~ party to outside counsel with whom the
23 state public defender has contracted, subject to the fees for
24 legal services incorporated in the contract.

25 c. Serve as guardian ad litem for each child in all cases
26 in which the local public defender office is the state public
27 defender's designee. The local public defender shall be
28 responsible for determining who shall perform the duties of
29 the guardian ad litem as defined in [section 232.2](#) and shall
30 be responsible for assuring the court that the duties of the
31 guardian ad litem have been fulfilled. A local public defender
32 office or designee shall serve as guardian ad litem for each
33 child in a subsequent adoption proceeding pursuant to section
34 600.3 to adopt a child who was the subject of a termination of
35 parental rights proceeding pursuant to chapter 232 in which the

1 local public defender office was involved as provided under
2 this paragraph. If a conflict of interest arises, the guardian
3 ad litem for the child shall be provided through retention
4 of outside counsel with whom the state public defender has
5 contracted, subject to the fees for guardian ad litem services
6 incorporated in the contract.

7 Sec. 2. Section 600.6, subsection 1, Code 2023, is amended
8 to read as follows:

9 1. A certified copy of the birth certificate showing
10 parentage of the person to be adopted or, if such certificate
11 is not available, a verified birth record. The department of
12 health and human services shall provide a certified copy of a
13 birth certificate or a verified birth record, as applicable, to
14 the person adopting a child when the department of health and
15 human services is the guardian of the child.

16 Sec. 3. Section 600.11, Code 2023, is amended to read as
17 follows:

18 **600.11 Notice of adoption hearing.**

19 1. The juvenile court or court shall set the time and place
20 of the adoption hearing prescribed in [section 600.12](#) upon
21 application of the petitioner. The juvenile court or court
22 may continue the adoption hearing if the notice prescribed in
23 subsections 2 and 3 4 or subsections 3 and 4, as applicable, is
24 given, except that such notice shall only be given at least ten
25 days prior to the date which has been set for the continuation
26 of the adoption hearing.

27 2. a. ~~At~~ Unless the person to be adopted is an adult and
28 subsection 3 is applicable, at least twenty days before the
29 adoption hearing, a copy of the petition and its attachments
30 and a notice of the adoption hearing shall be given by the
31 adoption petitioner to all of the following:

32 (1) A guardian, guardian ad litem if appointed for the
33 adoption proceedings, and custodian of, and a person in a
34 parent-child relationship with the person to be adopted. This
35 subparagraph does not require notice to be given to a person

1 whose parental rights have been terminated with regard to the
2 person to be adopted.

3 ~~(2) The person to be adopted who is an adult.~~

4 ~~(3)~~ (2) Any person who is designated to make an
5 investigation and report under [section 600.8](#).

6 ~~(4)~~ (3) Any other person who is required to consent under
7 section 600.7.

8 ~~(5)~~ (4) A person who has been granted visitation rights
9 with the child to be adopted pursuant to [section 600C.1](#).

10 ~~(6)~~ (5) A person who is ordered to pay support or a
11 postsecondary education subsidy pursuant to [section 598.21F](#), or
12 chapter 234, [252A](#), [252C](#), [252F](#), [598](#), [600B](#), or any other chapter
13 of the Code, for a person eighteen years of age or older who is
14 being adopted by a stepparent, and the support order or order
15 requires payment of support or postsecondary education subsidy
16 for any period of time after the child reaches eighteen years
17 of age.

18 ~~(7)~~ (6) Any siblings of the person to be adopted due to
19 either an ongoing relationship or a court finding that ongoing
20 contact with the person to be adopted is in the best interest
21 of each sibling if the person to be adopted was a minor child
22 when the minor child's parents had their parental rights
23 terminated pursuant to [chapter 232](#) and the person to be adopted
24 and the person's siblings were not placed together.

25 *b.* Nothing in [this subsection](#) shall require the petitioner
26 to give notice to self or to petitioner's spouse. A duplicate
27 copy of the petition and its attachments shall be mailed to the
28 department by the clerk of court at the time the petition is
29 filed.

30 3. If the person to be adopted is an adult, at least twenty
31 days before the adoption hearing, a copy of the petition and
32 its attachments and a notice of the adoption hearing shall be
33 given by the adoption petitioner to the person to be adopted
34 and any other person who is required to consent to the adoption
35 under section 600.7.

1 4. A notice of the adoption hearing shall state the time,
2 place, and purpose of the hearing and shall be served in
3 accordance with **rule of civil procedure 1.305**. Proof of the
4 giving of notice shall be filed with the juvenile court or
5 court prior to the adoption hearing. Acceptance of service by
6 the party being given notice shall satisfy the requirements of
7 this subsection.

8

EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to adoption proceedings including
12 provisions relating to representation of the parties and
13 provision of a guardian ad litem for a child in certain
14 adoption proceedings, attachments to an adoption petition, and
15 requirements for notice of an adoption hearing.

16 Regarding the powers and duties of local public defenders,
17 the bill provides for the representation of certain parties and
18 for provision of a guardian ad litem for a child in certain
19 adoption proceedings.

20 Under current law, a local public defender office shall
21 represent an indigent party, upon order of the court, in
22 child in need of assistance, family in need of assistance,
23 delinquency, and termination of parental rights proceedings
24 pursuant to Code chapter 232 (juvenile justice) when designated
25 by the state public defender to represent the indigent party
26 in the type of case for that county. Additionally, under
27 current law, a local public defender office shall represent,
28 in a subsequent adoption proceeding, an indigent party who
29 files an adoption petition to adopt a child who was the subject
30 of a termination of parental rights proceeding pursuant to
31 Code chapter 232 in which the local public defender office was
32 involved. If a conflict of interest arises, the representation
33 shall be provided through referral of the indigent party
34 to outside counsel with whom the state public defender has
35 contracted, subject to the fees for legal services incorporated

1 in the contract. The bill amends the provisions relating
2 to representation by the local public defender office in
3 the specified type of subsequent adoption proceeding by
4 providing that the local public defender office or designee
5 shall represent in any such subsequent adoption proceeding
6 both indigent and nonindigent parties who file an adoption
7 petition. The bill also makes a conforming change to provide
8 that a referral for representation in the case of a conflict
9 of interest applies to both indigent and nonindigent parties,
10 as applicable.

11 Under current law, a local public defender office shall
12 serve as guardian ad litem for each child in all cases in which
13 a local public defender office is the state public defender's
14 designee. The local public defender is responsible for
15 determining who shall serve as guardian ad litem pursuant to
16 Code chapter 232 (juvenile justice) and for assuring that the
17 duties are fulfilled. The bill requires, additionally, that
18 a local public defender office shall be appointed to serve as
19 guardian ad litem in a subsequent adoption proceeding to adopt
20 a child who was the subject of a termination of parental rights
21 proceeding pursuant to Code chapter 232 in which the local
22 public defender office was involved. If a conflict of interest
23 arises, the guardian ad litem for the child shall be provided
24 through retention of outside counsel with whom the state public
25 defender has contracted, subject to the fees for guardian ad
26 litem services incorporated in the contract.

27 The bill also amends provisions relating to the contents
28 of an adoption petition. Current law requires an adoption
29 petition to have attached a certified copy of the birth
30 certificate showing the parentage of the person to be adopted
31 or, if such certificate is not available, a verified birth
32 record. The bill provides that if the department of health
33 and human services (HHS) is the guardian of the child being
34 adopted, HHS shall provide a certified copy of a birth
35 certificate or a verified birth record, as applicable, to the

1 person adopting the child.

2 The bill amends provisions relating to the notice of
3 adoption hearing to distinguish between whether the person
4 to be adopted is a child or an adult. Under current law, in
5 all adoptions, at least 20 days before the adoption hearing,
6 a copy of the petition and its attachments and a notice of the
7 adoption hearing shall be given by the adoption petitioner to
8 a guardian, guardian ad litem if appointed for the adoption
9 proceedings, and custodian of, and a person in a parent-child
10 relationship with the person to be adopted, not including a
11 person whose parental rights have been terminated with regard
12 to the person to be adopted; the person to be adopted who is an
13 adult; any person who is designated to make an investigation
14 and report under Code section 600.8 (placement investigations
15 and reports); any other person who is required to consent
16 under Code section 600.7 (consents to adoption); a person
17 who has been granted visitation rights with the child to be
18 adopted pursuant to Code section 600C.1 (grandparent and
19 great-grandparent visitation); a person who is ordered to pay
20 support or a postsecondary education subsidy; and any siblings
21 of the person to be adopted under certain conditions. These
22 current notice of adoption hearing provisions still apply,
23 unless the person to be adopted is an adult. Alternatively,
24 the bill provides that if the person to be adopted is an adult,
25 at least 20 days before the adoption hearing, a copy of the
26 petition and its attachments and a notice of the adoption
27 hearing shall be given by the adoption petitioner only to the
28 person to be adopted and any other person who is required to
29 consent to the adoption.